

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
HATTIESBURG DIVISION**

EARL EDMONDS

PLAINTIFF

v.

CIVIL ACTION NO. 2:11-CV-102-KS-MTP

THE CITY OF HATTIESBURG, et al.

DEFENDANTS

ORDER

On May 22, 2012, Defendants filed documentation of the fees and expenses they incurred as a result of Plaintiff's failure to comply with the Court's order of April 24, 2012. Plaintiff failed to respond within the time period set out in the Court's order of May 15, 2012.

Under Rule 37, the Court may impose "just" sanctions, including the payment of reasonable expenses, including attorney's fees, caused by a party's failure to comply with discovery orders. FED. R. CIV. P. 37(b)(2); *see also Tollett v. City of Kemah*, 285 F.3d 357, 368 (5th Cir. 2002). "Although sanctions under the Court's inherent power require a finding of bad faith, sanctions under Rule 37 do not." *Sample v. Miles*, 239 F. App'x 14, 21 n. 20 (5th Cir. 2007) (punctuation omitted). Even negligent failures to comply with discovery orders fall within Rule 37's ambit. *Coane v. Ferrara Pan Candy Co.*, 898 F.2d 1030, 1032 (5th Cir. 1990). The Court's primary responsibility when applying Rule 37 is to "to do justice between" the parties. *B. F. Goodrich Tire Co. v. Lyster*, 328 F.2d 411, 416 (5th Cir. 1964).

The Court has reviewed the invoice submitted by Defendants, and it finds that

all of the hours submitted by Defendants were incurred as a result of Plaintiff's failure to comply with the Court's order of April 24, 2012. The Court further finds that the number of hours and the hourly billing rate are reasonable. *See Hensley v. Eckerhart*, 461 U.S. 424, 103 S. Ct. 1933, 76 L. Ed. 2d 40 (1983) (requiring that a party seeking fees prove that its request is reasonable and to document the hours expended).

Therefore, pursuant to its power under Rule 37, the Court awards Defendants \$364.50 in fees and expenses for Plaintiff's failure to comply with the Court's discovery order of April 24, 2012. Plaintiff shall remit payment within fourteen (14) days of the entry of this order.

The Court warns Plaintiff that further failures to comply with the Court's orders may result in more severe sanctions, including dismissal of Plaintiff's claims.

SO ORDERED AND ADJUDGED this 11th day of June, 2012.

s/ Keith Starrett
UNITED STATES DISTRICT JUDGE